

**Comments of the Western Power Trading Forum
to the California Air Resources Board on Proposed Changes to the Mandatory
Reporting Regulation**

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The Western Power Trading Forum (WPTF) offers comments to the California Air Resources Board (CARB) in response to issues raised at the June 26th workshop to Discuss Potential Revisions to the Mandatory Reporting Regulation.

WPTF supports CARB's efforts to clarify provisions related to electricity imports, particularly with respect to requirements for reporting specified power. In this regard, we propose specific modifications to the regulation to clarify contractual requirements. As these are new regulatory requirements, CARB should ensure that they are only applied prospectively. Specifically, the new requirements should apply only for electricity transactions entered into after January 1, 2014.

WPTF continues to believe that provisions related to retirement of Renewable Energy Credits for both direct delivery of renewable energy and the Renewable Portfolio Standard adjustment are inappropriate and should be removed. We will not repeat these comments here, but instead refer you to WPTF's April 25th submission, which addressed this topic. We will provide additional comments following CARB's release of textual proposals on this matter.

Additionally, WPTF is strongly opposed to the proposal to move the deadline for verification of emission data reports forward by two weeks. We understand that this has been proposed in order to facilitate CARB's schedule for allowance auctions and the Price Containment Reserve sales under the cap and trade regulation. We will provide additional comments in the context of potential changes to the cap and trade regulation.

Finally, WPTF appreciates the opportunity to work with CARB as it evaluates the need to provide additional clarity around situations where a change in ownership has occurred, the requirements around cessation of reporting, and the appropriate use of a transmission loss factor in the Annual GHG report.

Requirements for Specified Electricity Imports

At the June 26th workshop, CARB staff identified three areas where staff feels that more clarity is needed regarding contract conditions under which it will recognize a specified source transaction:

- The intent of parties to transact the electricity as specified;
- Sale of electricity as specified when the seller is not the facility owner or operator; and
- Documentation necessary to substantiate a specified contract.

On the first point, WPTF understands that CARB wishes to see demonstration of the clear intent of parties to the contract to transact electricity as 'specified', that is to transact power that could be reported by the buyer as specified upon import to California. WPTF agrees that this would be a useful clarification.

WPTF understands the second point as pertaining to resale of specified electricity. The issue here is what documentation would be necessary to demonstrate that the 'right' to report specified power has conveyed from the original owner or operator of a facility down through a contractual chain, that may contain one or more intermediaries, to the buyer that imports to California. The appropriate solution here is not for CARB to dictate contract terms to address this, but rather to explicitly require that when

an electric power entity reports a specified import where the entity's counter party is not the facility owner or operator, the reporting entity must be able to document that all up-stream sales of that electricity occurred through specified contracts.

On the third point, it is still not clear whether a power contract that identifies a resource in a verbal confirmation alone with supporting electronic records would be considered sufficient by CARB to substantiate that the contract was 'specified.' As we noted in our previous submission, it is important that CARB clearly resolve this question because of the common use of verbal confirmations in short-term power markets. WPTF understands from the explanation provided at the workshop that staff will recognize electronic records (i.e. recordings or transcripts) as documentation of a specified electricity transaction. WPTF supports this, but recommends that the regulation be modified to clearly set forth a requirement that an importer must be able to provide documentation of a specified power contract in order to report it as specified. Such a clarification would help a buyer of specified power to ensure that it has sufficient documentation from the seller to substantiate a claim to specified power upon import.

Finally, WPTF notes that CARB has provided regulatory guidance over the past several months on Specified Sources and Use of Asset-Controlling Supplier Emission Factors¹. We recommend that this guidance also be reflected in the regulation.

Proposed Regulatory Changes

To address these issues, WPTF recommends that CARB make several modifications to the Mandatory Reporting Regulation:

- Add a new definition for "Specified Power Contract" to clarify the requirement that the contract demonstrate the intent of parties to transact specified power and to codify regulatory guidance issued to date;
- Revise the definition of "power contract" to remove reference to a specified power contract, since specified power contract would be defined separately;
- Revise the definition of "specified source of electricity" to use the terms "generation providing entity" and "specified power contract";
- Revise the definition of 'substitute electricity' to accommodate other reasons for non-delivery of electricity, in addition to the designated facility not generating;
- Revise operative requirements for reporting of specified imports to reflect Regulatory Guidance issued to date on reporting of the lessor of facility generation or electricity delivered within the hour, and to distinguish between requirements for reporting of specified power from asset-controlling suppliers;
- Revise operative requirements for reporting of specified imports from asset-controlling suppliers to clarify requirement for a specified source contract when the importer is not the asset-controlling supplier;

¹ See "Use of Asset-Controlling Supplier Systems Emissions Factors", *available at*: <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/acs-power.htm> and "Specified Source Guidance" *available at*: http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/specified_source_guidance.pdf

- Revise requirements for retention of meter data to allow for allocated generation data for hydroelectric facilities operated under the Mid-Columbia Hourly Coordination Agreement.
- Revise operative requirements for “Delivery Tracking Conditions for Specified Imports” to use the term ‘specified power contract’ and require that importer must be able to document upstream sales as specified, back to the facility owner or operator.

Our proposed changes are shown in the highlighted text below with new language in under-line and deleted language in strike-out.

(351) “Power contract” or “written power contract,” as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another entity, as long as that other entity also reports to ARB the same imported or exported electricity. ~~A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier’s system that is designated at the time the transaction is executed.~~

(NEW) “A power contract for a specified source” or “specified power contract” is a power contract under which the seller, at the time the transaction is executed, designates a particular facility, unit or asset-controlling supplier system as the specified source of the electricity for purposes of this regulation. When a specified power contract designates one or more specified sources, each resource must be individually identified, unless the resources are considered one project for Federal Energy Regulatory Commission hydroelectric licensing purposes.

(432) “Specified source of electricity” or “specified source” means a facility ~~or~~ unit, or asset-controlling supplier ~~which~~ that is permitted to be claimed under this regulation as the source of electricity delivered and reported with a unit, facility or ACS specific emission rate. The reporting entity must be a generation providing entity or ~~have either full or partial ownership in the facility/unit or written~~ have a specified power contract to procure electricity generated by that facility, unit or asset-controlling supplier. Use of a specified emission factor is contingent upon direct delivery of electricity from the specified source. Specified facilities/units include cogeneration systems. Specified source also means electricity procured under a specified power contract from an asset-controlling supplier recognized by the ARB.

(442) “Substitute power” or “substitute electricity” means electricity that is provided to meet the terms of a specified power ~~purchase contract with a specified facility or unit when that~~ electricity from the designated facility or unit is not delivered ~~generating electricity.~~

Section 95111(a)

...

(4) *Imported Electricity from Specified Facilities or Units, other than from Asset-Controlling Suppliers.* The electric power entity must report all direct delivery of electricity as from a specified source for facilities or units in which they are a generation providing entity (GPE) or have a ~~written~~ specified power contract to procure electricity. When reporting imported electricity from specified facilities or units, the electric power entity must disaggregate electricity deliveries and associated GHG emissions by facility or unit and by first point of receipt, as applicable, and report the lessor of facility or unit generation and electricity delivered within the hour. The reporting entity must also report total GHG emissions and MWh from specified sources and the sum of emissions from specified sources explicitly listed as not covered pursuant to section 95852.2 of the cap-and-trade regulation.

...

(5) *Imported Electricity from Specified ~~Supplied by~~ Asset-Controlling Suppliers.* The reporting entity must separately report imported electricity supplied by asset-controlling suppliers recognized by ARB when it is an asset-controlling supplier or has a specified power contract for electricity procured from an asset-controlling supplier. The asset-controlling supplier must be identified on the physical path of NERC e-Tags as the PSE at the first point of receipt, regardless of whether the reporting entity and asset-controlling supplier are adjacent in the market path. The reporting entity must:

...

Section 95111 (g) *Requirements for Claims of Specified Sources of Electricity and for Eligible Renewable Energy Resources in the RPS Adjustment.*

...

(1)(N) For verification purposes, retain meter generation data, or allocated generation data for hydroelectric facilities operated under the Mid-Columbia Hourly Coordination Agreement, to document that the power claimed by the reporting entity was generated by the facility or unit at the time the power was directly delivered.

...

(3) *Delivery Tracking Conditions Required for Specified Electricity Imports.* Electricity importers may claim a specified source when the electricity delivery meets any of the criteria for direct delivery of electricity defined in section 95102(a), and one of the following sets of conditions:

(A) The electricity importer is a GPE for the facility or unit or a recognized asset-controlling supplier; or

(B) The electricity importer has a ~~written~~ specified power contract for electricity generated by the facility or unit or asset-controlling supplier's system. The electricity importer must be able to provide evidence to a verifier upon request of the specified power contract, and, if the specified power contract is not directly with the facility or unit owner or operator, or the asset-controlling supplier, evidence that all upstream sales of that electricity leading back to such were made pursuant to a specified power contract.

Clarification related to NERC tags

WPTF also requests that CARB provide clarification on acceptable origination points for NERC e-tags for specified imports under two scenarios. First, in some cases resources that are physically located in one

balancing area are dynamically signaled by another balancing area. In this case, the NERC tag will show the electricity as originating in the signaling balancing area, rather than the balancing area in which the resource is located. WPTF believes that in many situations this complies with CARB requirements for direct delivery from the source to California. However, we are concerned that the inclusion of a facility in a balancing authority by way of dynamic signaling should not allow entities to avoid the requirement for a continuous transmission path from the facility to California for situations in which the facility, had it not been included in the balancing authority, would have required incremental segments of transmission for delivery (i.e. the electricity would not have been delivered via a single continuous transmission path). WPTF therefore requests that CARB clarify that this practice is acceptable when sufficient transmission capacity is reserved and scheduled from the facility to the signaling balancing authority, but is not acceptable in the case of geographically disparate balancing authorities when there is insufficient transmission capacity reserved to connect the facility with the signaling balancing authority.

Second, CARB staff indicated at workshop held on March 26 that guidance would be forthcoming on acceptable tag origination points for electricity supplied from an Asset-controlling Supplier's system that originates outside the service territory of the asset-controlling supplier. We request CARB to identify the acceptable origination points for electricity supplied by the Bonneville Power Administration and Powerex, as well as any additional asset-controlling suppliers recognized by CARB in the future.